



# Bureau of TennCare

## Policy Manual

<b>Policy No: EED 05-001</b>	
<b>Subject: Eligibility and Services for Illegal/Undocumented Aliens</b>	
<b>Approved by: J. D. Hickey</b> <i>JH</i>	<b>Date: 10/13/05</b>

### POLICY:

Illegal/undocumented aliens are eligible for coverage of emergency services by TennCare if these services meet certain criteria. This coverage is required in federal statute.

### DISCUSSION:

State Medicaid programs are required to cover emergency services for illegal, or undocumented, aliens, even when these persons are not eligible for any other Medicaid services.

Aliens must otherwise meet the eligibility requirements of the State Plan, except they do not have to have Social Security Numbers or be receiving benefits from another government program such as Temporary Aid to Needy Families (TANF)<sup>1</sup> or Supplemental Security Income (SSI). They must, however, meet the same income and resource standards as other persons applying for Medicaid eligibility in the state.

In Tennessee, the following income and resource standards are applied by the Department of Human Services (DHS):

- For pregnant women: Poverty Level Income Standard (PLIS) (185% poverty); no resource limits.
- For children: PLIS (185% poverty for children from birth to age 1; 133% poverty for children from age 1 to age 6; 100% of poverty for children from age 6 to age 19); no resource limits.
- For others: Medically Needy Income Standard; Medically Needy resource limits (\$2000 for 1, \$3000 for 2, add \$100 for each additional family member).

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<sup>1</sup> In Tennessee, the TANF program is referred to as "Families First."

Federal regulations at 42 CFR 440.255(c) describe the emergency services that must be covered. (See definition below.)

The State Medicaid Manual goes on to clarify “emergency” labor and delivery services for undocumented aliens. “All labor and delivery is considered emergency labor and delivery.” See SMM, Section 3211(D).

It should be noted that the definition of emergency services for undocumented aliens is somewhat different from definitions of emergency services used elsewhere in the Medicaid program.

- The regulations from the Balanced Budget Act (BBA) of 1997 which govern Medicaid managed care programs require use of the “prudent layperson” standard. An emergency is defined as a situation in which a “prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result” in one of the above-named outcomes. There is no “prudent layperson” standard with the definition of emergency services for undocumented aliens.
- “Placing the patient’s health in serious jeopardy” is expanded in the BBA regulations to include, for pregnant women, the health of the woman or her unborn child.
- The “sudden onset” qualifier in the definition of emergency services for undocumented aliens is not present in the BBA definition of emergency services.

## **DEFINITIONS:**

Emergency medical condition. The sudden onset of a medical condition (including emergency labor and delivery) manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in:

- (i) Placing the patient’s health in serious jeopardy;
- (ii) Serious impairment to bodily functions; or
- (iii) Serious dysfunction of any bodily organ or part. See 42 CFR 440.255(c)(1).

Illegal/undocumented alien. An alien who is not lawfully admitted for permanent residence in the United States or permanently residing in the United States under color of law. See 42 CFR 440.255(c).

## **PROCEDURES:**

1. DHS takes applications from illegal aliens requiring emergency services. Due to the emergency nature of the services available to undocumented aliens, it is expected that most applications will be made after the services have already been provided.
2. DHS contacts the TennCare Office of the Medical Director if there is a question about whether the service needed by the illegal alien qualifies as an emergency service.

3. DHS sends manual notices to applicants for this category to let them know that they are or are not eligible for services. An appeals information sheet is enclosed.
4. If the individual is found to be eligible, the DHS county office sends a document to DHS central office, which then does a 1610 manual transaction to interChange with the dates of eligibility and MCO selection. The correct program code is 34. The category code is 2500.

#### **OFFICES OF PRIMARY RESPONSIBILITY:**

- DHS (for making eligibility determinations and providing eligibility notice and appeal rights)
- TennCare Office of the Medical Director (for decision-making regarding the presence/absence of an emergency)
- TennCare Division of Information Services (for enrollment/disenrollment of illegal aliens into the system)

#### **REFERENCES:**

[42 CFR 440.255\(c\)](#)

[42 CFR 435.406\(c\)](#)

[State Medicaid Manual Section 3211\(D\)](#)

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